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8	BEFORE THE							
	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS							
9	STATE OF	CALIFORNIA						
10	In the Matter of the Accusation Against:	Case No. 5703						
11	REGINALD R. CHANDRA	·						
12	756 Third Avenue San Bruno, CA 94066	ACCUSATION						
13	Pharmacy Technician License No. TCH 602							
14	Responde	· ·						
15	Acceptance of the control of the con							
16	Complainant alleges:							
17	<u>PA</u>	RTIES						
18	1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity							
19	as the Executive Officer of the Board of Pharm	acy, Department of Consumer Affairs.						
20	2. On or about January 11, 2005, the Board of Pharmacy issued Pharmacy Technician							
21	License No. TCH 60256 to Reginald R. Chandra (Respondent). The License was in full force and							
22	effect at all times relevant herein and will expire on December 31, 2016, unless renewed.							
23	JURISDICTION							
24	3. This Accusation is brought before the Board of Pharmacy (Board), Department of							
25	Consumer Affairs, under the authority of the following laws. All section references are to the							
26	Business and Professions Code (Code) unless otherwise indicated.							
27	4. Section 4300(a) of the Code provides that every license issued by the Board may be							
28	suspended or revoked.							
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- 5. Section 4011 of the Code provides that the Board shall administer and enforce both the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances Act [Health & Safety Code, § 11000 et seq.].
- 6. Section 4300.1 of the Code provides that the expiration, cancellation, forfeiture, or suspension of a Board-issued license, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee, shall not deprive the Board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

STATUTORY AND REGULATORY PROVISIONS

- 7. Section 4301 of the Code provides, in pertinent part, that the Board shall take action against any holder of a license who is guilty of "unprofessional conduct," defined to include, but not be limited to, any of the following:
- (f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.
- (h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.
- (j) The violation of any of the statutes of this state, of any other state, or of the United States regulating controlled substances and dangerous drugs.
- (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board or by any other state or federal regulatory agency.
- 8. Section 4059 of the Code, in pertinent part, prohibits furnishing of any dangerous drug or dangerous device except upon the prescription of an authorized prescriber.

- 9. Section 4060 of the Code provides, in pertinent part, that no person shall possess any controlled substance, except that furnished upon a valid prescription/drug order.
- 10. Health and Safety Code section 11170 provides that no person shall prescribe, administer, or furnish a controlled substance for himself or herself.
- 11. Health and Safety Code section 11173, subdivision (a), provides that no person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.
- 12. Health and Safety Code section 11350, in pertinent part, makes it unlawful to possess any controlled substance listed in Schedule II (Health and Safety Code section 11055), subdivision (b) or (c), or any narcotic drug in Schedules III-V, absent a valid prescription.
 - 13. California Code of Regulations, title 16, section 1770, states:

"For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions or duties of a licensee or registrant if to a substantial degree it evidences present or potential unfitness of a licensee or registrant to perform the functions authorized by her license or registration in a manner consistent with the public health, safety, or welfare."

COST RECOVERY

14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation of the licensing act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

CONTROLLED SUBSTANCES / DANGEROUS DRUGS

15. Section 4021 of the Code states:

"Controlled substance' means any substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code."

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- 16. Section 4022 of the Code states, in pertinent part:
- "'Dangerous drug' or 'dangerous device' means any drug or device unsafe for self use, except veterinary drugs that are labeled as such, and includes the following:
- "(a) Any drug that bears the legend: 'Caution: federal law prohibits dispensing without prescription,' 'Rx only,' or words of similar import.
- "(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006."
- 17. Norco, Vicodin, Vicodin ES, Lortab, and Lorcet are among the brand names for compounds of varying dosages of acetaminophen (aka APAP) and hydrocodone, a Schedule III controlled substance as designated by Health and Safety Code section 11056(e)(4) and dangerous drug as designated by Business and Professions Code section 4022. The varying compounds are also known generically as Hydrocodone with APAP. These are all narcotic drugs. Products like these that combine hydrocodone with non-controlled substances are also called hydrocodone combination products. Effective October 6, 2014, hydrocodone combination productions were switched at the federal level from Schedule III (21 C.F.R. § 1308.13(e)(1)(iii) and (iv)) to Schedule II (21 C.F.R. § 1308.12(b)(1)). This includes Hydrocodone with APAP drugs.

FACTUAL SUMMARY

- 18. For a period of time including November 13, 2014, Respondent was employed as a pharmacy technician at a Walgreens Pharmacy (PHY 35432) in San Carlos, California.
- 19. On or about November 13, 2014, Respondent opened a bag containing vials of drugs prepared for a patient and placed in the Will Call area of the pharmacy, removed a vial of Vicodin (Hydrocodone with APAP), and took it for his own use. Respondent admitted that he then immediately ingested/self-used two (2) tablets.

FIRST CAUSE FOR DISCIPLINE

(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)

20. Respondent is subject to discipline under section 4301(f) of the Code, in that Respondent, as described in paragraphs 18 and 19 above, committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption.

1	SECOND CAUSE FOR DISCIPLINE				
2	(Furnishing of Controlled Substance(s))				
3	21. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section				
4	4059 of the Code, and/or Health and Safety Code section 11170, in that Respondent, as described				
5	in paragraphs 18 and 19 above, furnished to himself or another without a valid prescription,				
6	and/or conspired to furnish, and/or assisted or abetted furnishing of, a controlled substance.				
7	THIRD CAUSE FOR DISCIPLINE				
8	(Possession of Controlled Substance(s))				
9	22. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section				
10	4060 of the Code, and/or Health and Safety Code section 11350, in that Respondent, as described				
11	in paragraphs 18 and 19 above, possessed, conspired to possess, and/or assisted in or abetted				
12	possession of, a controlled substance, without a valid prescription.				
13	FOURTH CAUSE FOR DISCIPLINE				
14	(Obtaining Controlled Substance by Fraud, Deceit or Subterfuge)				
15	23. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code,				
16	and/or Health and Safety Code section 11173(a), in that Respondent, as described in paragraphs				
17	18 and 19 above, obtained, conspired to obtain, and/or assisted in or abetted the obtaining of a				
18	controlled substance, by fraud, deceit, subterfuge, or concealment of material fact.				
19	FIFTH CAUSE FOR DISCIPLINE				
20	(Unprofessional Conduct)				
21	24. Respondent is subject to discipline under section 4301 of the Code in that				
22	Respondent, as described in paragraphs 18 to 23 above, engaged in unprofessional conduct.				
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25	<u>PRAYER</u>				
26	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,				
27	and that following the hearing, the Board of Pharmacy issue a decision:				
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	1.1							
1	1. Revoking or suspending Pharmacy Technician License Number TCH 60256, issued to							
2	Reginald R. Chandra (Respondent);							
3	2. Ordering Respondent to pay the Board the reasonable costs of the investigation and							
4	enforcement of this case, pursuant to Business and Professions Code section 125.3;							
5	3. Taking such other and further action as is deemed necessary and proper.							
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7	DATED:	8/29/16		Cugina	- Weedly	/		
8				VIRGINIA HERO Executive Officer				
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